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November 4, 2004

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: Investigation Regarding the Assignment of Interstate Pipeline Capacity
Pursuant to D.T.E. 98-32-B, D.T.E. 04-1

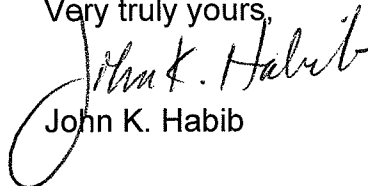
CONFIDENTIAL ATTACHMENT

Dear Ms. Cottrell:

Recently, the Department of Telecommunications and Energy asked New England Gas Company (the "Company") to supplemental its responses to Information Requests DTE-LDC-1-5, 1-6 (Supp), 1-7 and 1-8 in the above-referenced proceeding. As requested, the Company will send an electronic version of Attachment DTE-LDC-1-8 to the Hearing Officer in this proceeding. In addition, the Company has attached a confidential response to Information Request DTE-LDC-1-7. A Motion for Protective Treatment is also attached.

With regard to Information Requests DTE-LDC-1-5 and 1-6 (Supp), the Company's original responses to these questions included as complete a response as possible based on the data available from the Company's information systems. Accordingly, the Company is unable to provide any additional information to supplement these responses. Please contact me if you have any questions regarding this correspondence.

Very truly yours,


John K. Habib

Enclosures

cc: Service List (Transmittal Letter only)
Peter Czekanski
Kevin Penders

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation Regarding the)
Assignment of Interstate Pipeline)
Capacity Pursuant to D.T.E. 98-32-B)

D.T.E. 04-1

**MOTION OF NEW ENGLAND GAS COMPANY
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

New England Gas Company (the “Company”) hereby requests that the Department of Telecommunications and Energy (the “Department”), pursuant to G.L. c. 25, § 5D, grant protection from public disclosure of certain confidential, competitively sensitive and proprietary information submitted as part of the Company’s responses to information requests in this proceeding. Specifically, the Company requests that the Department protect from public disclosure the Company’s supplemental response to Information Request DTE-LDC-1-7. As discussed below, the information contained in the document is competitively sensitive and its release to the public would jeopardize the competitive positions of the companies referenced in the response.

I. LEGAL STANDARD

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where

the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In interpreting the statute, the Department has held that:

... [T]he burden on the company is to establish the need for protection of the information cited by the company. In determining the existence and extent of such need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest.

The Berkshire Electric Company et al., D.P.U. 93-187/188/189/190, at 16 (1994) as cited in Hearing Officers Ruling On the Motion of Boston Electric Company for Confidentiality, D.P.U. 96-50, at 4 (1996).

Thus, a company must prove that: (1) the information for which protection is sought constitutes trade secrets, confidential, competitively sensitive or other proprietary information; and (2) there is a need for nondisclosure of the information. The Berkshire Gas Company, D.T.E. 01-41 at 16 (2001). Where a party proves such a need, the Department may limit the length of time that such protection is in effect. Id.

In practice, the Department has recognized that competitively sensitive terms in a competitive market should be protected and that such protection is desirable as a matter of public policy. The Department also has recognized that a policy of according contract confidentiality may add value to contracts and provide benefits to a company's customers, and therefore may be desirable for policy reasons. The Berkshire Gas Company, D.T.E. 01-41, at 17 (2001). Specifically, the Department has accorded protective treatment of such competitively sensitive, confidential and proprietary information as contractual pricing provisions, compensation benchmarks and bids reasoning that disclosure may affect future negotiations by either constraining the willingness of entities

to offer better or more innovative terms than currently proposed or limit the future bargaining ability of a company. Id.

II. BASIS FOR CONFIDENTIALITY

The Company seeks protection from public disclosure of information filed in its supplemental response to Information Request DTE-LDC-1-7 regarding the names of the Company's marketers serving the Company's service territory, along with information regarding the marketers' total transportation volume and market share. The Company's initial response to the information request included the requested information regarding transportation volume and market share, but listed the marketers in an anonymous manner in order to protect the information regarding such marketers' market share from their competitors and the public generally. However, as discussed herein, unless the marketer's names are protected from public disclosure, the Department's request to reveal the names of the marketers will result in marketers' competitors having access to competitively sensitive market-share information, which could result in decreased competition for the Company's customers.

The Department should protect the marketers' market share information from public disclosure¹ because the disclosure of such information may place some of the Company's marketers at a competitive disadvantage vis-à-vis their competitors to the extent that they have access to information regarding their competitors' business plans, as deduced from such competitors' market share. For example, if Marketer A is trying to

¹ The Company's motion is not intended to protect the names of its marketers generally; it is intended to protect only their respective market-share information from public disclosure. Because the Company has already provided the marketers' market-share information to the Department in its initial response to Information Request DTE-LDC-1-7, the Company is requesting that the names of the marketers be protected in its supplemental response to the question.

compete with Marketer B to provide its services in Massachusetts, to the extent that Marketer B discovers that its market share in a particular service territory is miniscule as compared to its competitors, it may shift its resources away from that service territory, thereby depriving the customers in such service territory of a market option, and thus, reducing competition. As an additional example, if, through the responses of local distribution companies to Information Request DTE-LDC-1-7, a marketer can determine the aggregate market share of a competitor in Massachusetts generally, and determines that its market share is too small to justify continued operations in Massachusetts, such marketer may leave the Massachusetts market altogether. The revelation of market-share information may also unfairly reveal the business plans of a particular marketer, to the extent that it can be determined that a particular marketer is targeting certain service territories for business, causing a competitor to shift resources from one service territory to another, in order to compete against such marketer.

Conversely, to the extent that a marketer may determine through the Company's response to Information Request DTE-LDC-1-7 that it has a significantly larger market share than its competitors in a given service territory, or throughout Massachusetts generally, such marketer could use that advantage to market its product based primarily on its market share. The result may be that such marketer convinces customers to purchase gas services from it more on factors that have to do with its size and not its price, thereby possibly depriving customers of gas services from such marketer at the lowest price. In this, and each example referenced above, competition, and thus the Company's customers, may be adversely affected by the revelation of market share information.

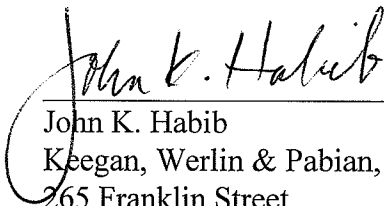
Accordingly, in order to protect the marketers' competitive positions in their market, the Company requests that the marketers' names be protected from public disclosure. The Company requests that the Department grant such confidential treatment for a period of three years from the date of the Department's final order in this proceeding, in order ensure that any revelation of market-share information in the future is sufficiently distant from the current and historical information presented in response to Information Request DTE-LDC-1-7.

WHEREFORE, the Company respectfully requests that the Department grant its Motion for Protective Treatment as stated herein.

Respectfully Submitted,

NEW ENGLAND GAS COMPANY

By its attorney,



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Dated: November 4, 2004